

UTILITIES DIVISION[199]

Adopted and Filed

Pursuant to Iowa Code sections 17A.4 and 476.1 and Iowa Code chapter 476C as amended by 2015 Iowa Acts, House File 645, the Utilities Board (Board) gives notice that on October 26, 2015, the Board issued an order in Docket No. RMU-2015-0001, In re: Renewable Energy Tax Credits, “Order Adopting Rules.” The adopted amendments to 199 IAC 15.19 reflect legislative changes to Iowa Code chapter 476C contained in 2015 Iowa Acts, House File 645, signed by the Governor on June 26, 2015.

The legislation amended Iowa Code chapter 476C to expand the list of options for chapter 476C facility ownership to include a municipally owned city utility and a rate-regulated public utility. The adopted rules reflect this amendment.

2015 Iowa Acts, House File 645, made two other changes to Iowa Code chapter 476C. First, the legislation increased the total eligible capacity for nonwind facilities from 53 megawatts (MW) to 63 MW, reserving this 10 MW increase for solar facilities with a generating capacity of 1.5 MW or less that are owned or contracted for by an electric cooperative association, a municipally owned city utility, or a public utility subject to rate regulation. Second, the legislation changed the maximum eligibility for refuse conversion facilities to annual maximums or limits. These two legislative changes do not require changes to the Board’s rules.

Notice of Intended Action in Docket No. RMU-2015-0001 was published in IAB Vol. XXXVIII, No. 5 (9/2/2015), p. 371, as **ARC 2116C**. Written comments were filed by the Office of Consumer Advocate (OCA), a division of the Iowa Department of Justice, and the Iowa Association of Electric Cooperatives (IAEC). Neither commenter requested an oral presentation. OCA said it supported the proposed amendments and that the amendments were consistent with 2015 Iowa Acts, House File 645. IAEC said it had no suggested revisions to the proposed amendments because they were consistent with statutory changes.

IAEC noted that the legislation increased the eligible capacity for nonwind facilities by 10 MW and reserved this increased capacity to solar facilities with a generating capacity of 1.5 MW or less that are owned or contracted for by electric cooperative associations, municipally owned city utilities, or public utilities subject to rate regulation. IAEC said that, while these changes do not require a rule change, clarification on how the legislation will be implemented would be helpful. For example, IAEC asked if the ownership limit in Iowa Code section 476C.3(7) applies equally to those eligible facilities that “contract for” such facilities.

IAEC’s request for clarification is beyond the scope of this rule making. The Board believes that any such clarification is best done on a case-by-case basis when an actual project is before the Board with relevant facts known. This gives those with differing statutory interpretations an opportunity to comment. A request for declaratory ruling might also be an appropriate docket for IAEC’s request, as that process also allows for comment by those with differing views.

No additional notice is necessary prior to the adoption of these amendments, and the Board adopts the amendments as published under Notice of Intended Action.

The Board does not find it necessary to adopt a separate waiver provision in this rule making. While the Board has a general waiver provision in 199 IAC 1.3, the amendments in 2015 Iowa Acts, House File 645, did not give the Board the authority to waive the statutory deadlines, so no waiver provision for these rules is necessary.

After analysis and review of this rule making, no impact on jobs has been found.

These amendments are intended to implement Iowa Code section 476.1 and Iowa Code chapter 476C as amended by 2015 Iowa Acts, House File 645.

These amendments will become effective December 30, 2015.

The following amendments are adopted.

ITEM 1. Amend subparagraph **15.19(1)“b”(7)** as follows:

(7) An electric cooperative association organized pursuant to Iowa Code chapter 499 that sells electricity to end users located in Iowa or has one or more members organized pursuant to Iowa Code chapter 499, a municipally owned city utility as defined in Iowa Code section 362.2, or a public utility subject to rate regulation pursuant to Iowa Code chapter 476;

ITEM 2. Amend subparagraph **15.19(1)“b”(8)** as follows:

(8) A cooperative corporation organized pursuant to Iowa Code chapter 497 or a limited liability corporation organized pursuant to Iowa Code chapter ~~490A~~ 489 whose shares and membership are held by an entity that is not prohibited from owning agricultural land under Iowa Code chapter 9H; or

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EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 11/25/15.